

lends its own funds as its principal activity in the mortgage field. Lending funds includes, but is not limited to, the purchase of whole mortgage loans. In the case of a federal, state, local, tribal, or Alaska Native village government agency, appropriated funds shall be considered an applicant's own funds. An applicant shall be deemed to satisfy this requirement notwithstanding that the majority of its operations are unrelated to mortgage lending if its mortgage activity conforms to this requirement. An applicant that acts principally as a broker for others making mortgage loans, or whose principal activity is to make mortgage loans for the account of others, does not meet this requirement.

(5) *Financial condition requirement.* An applicant shall be deemed to meet the financial condition requirement in paragraph (b)(5) of this section if the Bank determines that advances may be safely made to the applicant. The applicant shall submit to the Bank copies of its most recent regulatory audit or examination report, or external audit report, and any other documentary evidence, such as financial or other information, that the Bank may require to make the determination.

(d) *State housing finance agencies.* In addition to meeting the requirements in paragraph (b) of this section, any applicant seeking access to advances as a SHFA pursuant to § 935.24(b)(2) shall provide evidence satisfactory to the Bank, such as a copy of, or a citation to, the statutes and/or regulations describing the applicant's structure and responsibilities, that the applicant is a state housing finance agency as defined in § 935.1.

(e) *Ineligibility.* Except as otherwise provided in this subpart, if an applicant does not satisfy the requirements of this subpart, the applicant is ineligible to be certified as a nonmember mortgagee.

(The Office of Management and Budget approved the information collection requirements contained in this section and assigned control number 3069–0005 with an expiration date of November 30, 1999)

§ 935.23 Nonmember mortgagee application process.

(a) *Authority.* The Banks are authorized to approve or deny all applications for certification as a nonmember mortgagee, subject to the requirements of the Act and this subpart. A Bank may delegate the authority to approve applications for certification as a nonmember mortgagee only to a committee of the Bank's board of directors, the Bank president, or a senior officer who reports directly to the Bank president other than an officer with responsibility for business development.

(b) *Application requirements.* An applicant for certification as a nonmember mortgagee shall submit an application that satisfies the requirements of the Act and this subpart to the Bank of the district in which the applicant's principal place of business, as determined in accordance with part 933 of this chapter, is located.

(c) *Application process—(1) Action on applications.* A Bank shall approve or deny an application for certification as a nonmember mortgagee within 60 calendar days of the date the Bank deems the application to be complete. A Bank shall deem an application complete, and so notify the applicant in writing, when it has obtained all of the information required by this subpart and any other information it deems necessary to process the application. If a Bank determines during the review process that additional information is necessary to process the application, the Bank may deem the application incomplete and stop the 60-day time period by providing written notice to the applicant. When the Bank receives the additional information, it shall again deem the application complete, so notify the applicant in writing, and resume the 60-day time period where it stopped.

(2) *Decision on applications.* The Bank or a duly delegated committee of the Bank's board of directors, the Bank president, or a senior officer who reports directly to the Bank president other than an officer with responsibility for business development shall approve, or the board of directors of a Bank shall deny, each application for certification as a nonmember mortgagee by a written decision resolution

stating the grounds for the decision. Within three business days of a Bank's decision on an application, the Bank shall provide the applicant and the Board with a copy of the Bank's decision resolution.

(3) *File.* The Bank shall maintain a certification file for each applicant for at least three years after the date the Bank decides whether to approve or deny certification or the date the Board resolves any appeal, whichever is later. At a minimum, the certification file shall include all documents submitted by the applicant or otherwise obtained or generated by the Bank concerning the applicant, all documents the Bank relied upon in making its determination regarding certification, including copies of statutes and regulations, and the decision resolution.

(4) *Appeals.* Within 90 calendar days of the date of a Bank's decision to deny an application for certification as a nonmember mortgagee, the applicant may submit a written appeal to the Board that includes the Bank's decision resolution and a statement of the basis for the appeal with sufficient facts, information, analysis, and explanation to support the applicant's position. Appeals shall be sent to the Federal Housing Finance Board, 1777 F Street, N.W., Washington D.C. 20006, with a copy to the Bank.

(i) *Record for appeal.* Upon receiving a copy of an appeal, the Bank whose action has been appealed shall provide to the Board a complete copy of the applicant's certification file maintained by the Bank under paragraph (c)(3) of this section. Until the Board resolves the appeal, the Bank shall promptly provide to the Board any relevant new materials it receives. The Board may request additional information or further supporting arguments from the applicant, the Bank, or any other party that the Board deems appropriate.

(ii) *Deciding appeals.* Within 90 calendar days of the date an applicant files an appeal with the Board, the Board shall consider the record for appeal described in paragraph (c)(4)(i) of this section and resolve the appeal based on the requirements of the Act and this subpart.

(The Office of Management and Budget approved the information collection re-

quirements contained in this section and assigned control number 3069-0005 with an expiration date of November 30, 1999)

§935.24 Advances to nonmember mortgagees.

(a) *Authority.* Subject to the provisions of the Act and this subpart, a Bank may make advances only to a nonmember mortgagee whose principal place of business, as determined in accordance with part 933 of this chapter, is located in the Bank's district.

(b) *Collateral requirements—(1) Advances to nonmember mortgagees.* A Bank may make an advance to any nonmember mortgagee upon the security of the following collateral:

(i) Mortgage loans insured by the Federal Housing Administration of HUD under title II of the National Housing Act; or

(ii) Securities representing a whole interest in the principal and interest payments due on a pool of mortgage loans insured by the Federal Housing Administration of HUD under title II of the National Housing Act. A Bank may only accept as collateral the securities described in this paragraph (b)(1)(ii) if the nonmember mortgagee provides evidence that such securities are backed solely by mortgages of the type described in paragraph (b)(1)(i) of this section.

(2) *Certain advances to SHFAs.* (i) In addition to the collateral described in paragraph (b)(1) of this section, a Bank may make an advance to a nonmember mortgagee that has satisfied the requirements of §935.22(d) for the purpose of facilitating residential or commercial mortgage lending that benefits individuals or families meeting the income requirements in section 142(d) or 143(f) of the Internal Revenue Code (26 U.S.C. 142(d) or 143(f)) upon the security of the following collateral:

(A) The collateral described in §935.9(a) (1) or (2).

(B) The collateral described in §935.9(a)(3). Solely for the purpose of facilitating acceptance of such collateral, a Bank may establish a cash collateral account for a nonmember mortgagee that has satisfied the requirements of §935.22(d).